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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re A.M. et al., Persons Coming Under  
the Juvenile Court Law.

B270010  
(Los Angeles County  
Super. Ct. No. DK00188)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

S.O. et al.,

Defendants and Appellants.

APPEAL from a judgment of the Superior Court of Los Angeles County, Debra Losnick, Juvenile Court Referee. Reversed.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Appellant S.O.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Appellant R.G.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, and Brian Mahler, Deputy County Counsel, for Plaintiff and Respondent.

In this appeal, S.O. (mother) and R.G., the father of three of mother's six or seven children,<sup>1</sup> have shown that the juvenile court's visitation order lacked sufficient detail and therefore was an abuse of discretion. The juvenile court terminated jurisdiction after placing four of mother's children in a legal guardianship with their great-grandmother. We reverse the order terminating jurisdiction so that the juvenile court may issue an appropriate visitation order. As soon as the visitation order is issued, the juvenile court shall terminate its jurisdiction.

### **BACKGROUND**

There is a lengthy dependency history involving mother and her companion R.G., who later became her husband.<sup>2</sup> During the course of the extended dependency proceedings, which began in July 2013, mother and R.G. had two children—A.G. and RO.G.—in addition to her four children J.A., J.O., AE.G. and A.M. A.M. moved out of state to live with her father (not R.G.). This appeal concerns J.A., J.O. AE.G. and A.G. (the children), all of whom were placed with their maternal great-grandmother as their legal guardian. In January 2016, the juvenile court terminated jurisdiction over the children after selecting legal guardianship as the children's permanent plan.<sup>3</sup>

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<sup>1</sup> When the dependency proceedings began, mother had four children. Two children were born during the course of the dependency proceedings. Further, during the course of the proceedings, mother was pregnant with her seventh child.

<sup>2</sup> In July 2013, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition, which, as later sustained, indicated that mother and her male companion R.G., have a history of altercations in the children's home. R.G. struck mother's face causing her to bleed, and she continued to allow him to live in the home. In June 2014, a supplemental petition identified additional violent altercations between R.G. and mother. The violence continued throughout the dependency proceedings. Also in June 2014, DCFS filed a Welfare and Institutions Code section 300 petition naming A.G., who was then seven months old.

All further statutory references are to the Welfare and Institutions Code.

<sup>3</sup> Jurisdiction was not terminated as to RO.G. A petition as to RO.G. was filed in April 2015 when he was almost two weeks old, and he was detained.

Because the sole issue on appeal concerns mother and R.G.'s visitation, we summarize only the facts relevant to that issue.

At the section 366.26 hearing, DCFS recommended that maternal great-grandmother become the children's legal guardian. The children agreed with that recommendation. Mother expressed concern that she would not have visitation and requested a "very specific visitation" order. The court responded that the visitation order should "say two times per week" (consistent with the court's prior order). R.G. requested the same visitation order as mother. The juvenile court orally stated that the "order [shall] include two times per week visits for both parents" and that the court's jurisdiction should be terminated.

On January 21, 2016, the court terminated jurisdiction. The court's minute order indicated that maternal great-grandmother shall serve as the children's legal guardian. The section 366.26 order identifies legal guardianship as the permanent plan. *No* visitation is identified in the court's final order.

### **DISCUSSION**

Both mother and R.G. argue that the juvenile court's orally rendered visitation order was insufficient because it does not reflect the duration of the visits. Both also emphasize that the court's written order did not include visitation even though the court made an oral visitation order of two times per week.<sup>4</sup>

Section 366.26, subdivision (c)(4)(C) provides, if the court does not select adoption or the termination of parental rights as a permanent plan, "[t]he court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the child." Under this statute the trial court was required to make a visitation order and could not delegate it to the legal guardian to decide the number and duration of visits. (*In re M.R.* (2005) 132 Cal.App.4th 269, 274.)

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<sup>4</sup> There is no merit to respondent's forfeiture argument because both mother and R.G. requested visitation at the section 366.26 hearing.

Here, the case must be remanded for the juvenile court to specify the frequency and duration of mother and R.G.'s visits. (*In re M.R.*, *supra*, 132 Cal.App.4th at p. 274.) "Because the trial court already has determined that visitation . . . is warranted and appropriate, scheduling the frequency and duration of these visits ensures that the court's goal of maintaining this parental relationship will occur."<sup>5</sup> (*In re Rebecca S.* (2010) 181 Cal.App.4th 1310, 1314.)

This resolution renders moot mother and R.G.'s further argument that jurisdiction was warranted because the court did not issue a detailed visitation order. Although the court should have specified the visitation order, once the visitation schedule was arranged, jurisdiction would no longer be warranted.

### **DISPOSITION**

The order terminating jurisdiction is reversed. The case is remanded to the juvenile court to make a visitation order that specifies the duration and frequency of mother and R.G.'s visits. Upon issuing a visitation order, the court shall terminate its jurisdiction.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.

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<sup>5</sup> Respondent cites to *In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1375-1376, and *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1009-1010, for the proposition that the juvenile court's failure to specify the duration of the visits was not improper. Those cases however provided DCFS discretion to arrange visitation during the dependency period while the juvenile court has jurisdiction over the child. In contrast, this case concerns an order for visitation after a legal guardianship has been ordered and jurisdiction has been terminated. The difference is significant because DCFS no longer is involved in arranging and monitoring visitation.